

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

SIXTY-FOUR (64) ASSORTED
FIREARMS AND 33,193 ROUNDS OF
ASSORTED AMMUNITION,

Defendants.

Civil No. 8:19-CV315

COMPLAINT FOR FORFEITURE *IN REM*

The United States of America, for its cause of action against the named *in rem* defendant property pursuant to Rule G(2) of the Supplemental Rules for Admiralty and Maritime Claims and Asset Forfeiture Actions, states and alleges as follows:

1. This is an action to forfeit said property to the United States of America for violations of 18 U.S.C. § 922(g)(4).
2. The defendant property consists of sixty-four (64) assorted firearms and 33,193 rounds of assorted ammunition listed in **Exhibit 1**.
3. The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) seized the defendant property from Samuel Helwig by on or about January 17, 2019.
4. ATF currently maintains custody of all defendant property listed in **Exhibit 1** in Omaha, Nebraska.
5. This Court has subject matter jurisdiction over an action commenced by the United States pursuant to 28 U.S.C. § 1345, and over an action for forfeiture under 28 U.S.C. § 1355(a).

6. This Court has *in rem* jurisdiction over the defendant property pursuant to 28 U.S.C. § 1355(b)(1)(A) because acts or omissions giving rise to the forfeiture occurred in this judicial district.
7. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1355(b)(1)(A) because acts or omissions giving rise to the forfeiture occurred in this district, and/or pursuant to 28 U.S.C. § 1395 because the defendant property is located in this district.
8. The defendant property was involved in, and/or used in violation of 18 U.S.C. § 922(g)(4),
and, therefore, is subject to forfeiture to the United States of America pursuant to 18 U.S.C. § 924(d).

Facts

9. On November 12, 2018, deputies for the Sarpy County (Nebraska) Sheriff's Office served a mental health warrant upon Samuel Helwig at his residence, located at 13502 Walnut Street, in Springfield, Nebraska.
10. During execution of the mental health warrant, deputies observed a handgun in plain sight.
11. Deputies subsequently transported Mr. Helwig to Immanuel Hospital in Omaha, Nebraska. During that time, Mr. Helwig made comments about shooting firearms on his farm property.
12. Upon further investigation, the Sarpy County Sheriff's Office learned that Mr. Helwig had been adjudicated as a "mental defective" in October 2009 by the Probate Court

of Denton County, Texas. This finding prohibited Helwig from possessing firearms and ammunition.

13. As a result, the Sarpy County Sheriff's Office formally referred the case to the ATF on December 18, 2018.
14. ATF confirmed Mr. Helwig had been adjudicated as a mental defective by the Probate Court of Denton County, Texas. *See Exhibit 2*, Helwig adjudication, attached hereto.
15. In addition, Special Agent (SA) Anthony Sorenson conducted a database check for registered items with the National Firearms Act Branch (NFA) of the ATF. The check found that Helwig has seven (7) silencers registered with the NFA branch of the ATF. The silencers are registered under the Wolverines Trust in which Helwig was the only listed member of the trust. The Wolverines Trust listed 13502 Walnut Street, Springfield, Nebraska, as the location for the registered silencers.
16. Based upon the finding of its investigation, ATF executed a Federal search warrant upon Mr. Helwig's residence, 13502 Walnut Street, Springfield, Nebraska, on January 17, 2019.
17. Incident to the execution of that search warrant, ATF seized the defendant sixty-four (64) assorted firearms and 33,193 rounds of assorted ammunition. *See Exhibit 1*.
18. ATF subsequently initiated an administrative forfeiture action against all named *in rem* defendants. In response, Mr. Helwig filed a written claim, dated April 16, 2019, in which he challenged the forfeiture of the seized items. ATF received Helwig's claim on April 18, 2019. *See Exhibit 3*, Helwig Claim, attached hereto.

19. On May 13, 2019, the Sarpy County Sheriff's Office notified ATF that Mr. Helwig was found dead on his property the previous day as the result of an apparent suicide.

Claim for Relief

20. The United States repeats and incorporates by reference paragraphs 1 through 17 above.

21. Title 18, United States Code, Section 924(d) provides for the forfeiture of "[a]ny firearm or ammunition involved in or used in any knowing violation of subsection (a)(4), (a)(6), (f), (g), (h), (i), (j), (k) of section 922."

22. The term "firearm" includes:

- (A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by action of an explosive;
- (B) the frame or receiver of any such weapon;
- (C) any firearm muffler or silencer; or
- (D) any destructive device.

18 U.S.C. § 921(a)(3).

23. The term "ammunition" means "ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm." 18 U.S.C. § 921(a)(17).

24. By the foregoing and other acts, the named *in rem* defendant property constitutes firearms and ammunition involved in or used in violation of 18 U.S.C. § 922(g)(4), *et seq.*, and therefore, is subject to forfeiture to the United States pursuant to 18 U.S.C. § 924(d).

WHEREFORE the United States of America prays the defendant property be proceeded against for forfeiture; that due notice be given to all interested parties¹ to appear and show cause why forfeiture should not be decreed; that the defendant property be condemned, as forfeited, to the United States of America and disposed of according to law and regulations; that the costs of this action be assessed against the defendant property; and for such other and further relief as this Court may deem just and equitable.

UNITED STATES OF AMERICA,
Plaintiff

JOSEPH P. KELLY
United States Attorney

By:


s/ Amy B. Blackburn

Amy B. Blackburn (MO#48222)
Assistant U.S. Attorney
1620 Dodge Street, Suite 1400
Omaha, NE 68102-1506
Tel: (402) 661-3700
E-mail: amy.blackburn@usdoj.gov

¹ The United States will send notice addressed to Mr. Helwig at his last known address, which presumably is being monitored by next-of-kin who may forward the notice to the representative or administrator of Mr. Helwig's estate. The United States will also make diligent efforts to identify and notice any known legal representatives or heirs to the decedent's estate.

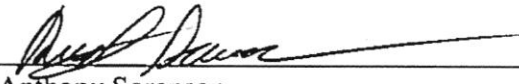
VERIFICATION

I, Anthony Sorenson, Special Agent, Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), hereby verify and declare that I have read the foregoing Verified Complaint *in Rem* and know the contents thereof, and that the factual matters contained in paragraphs 8 through 17 of the Verified Complaint are true to my own knowledge, except that those matters herein stated to be alleged on information and belief, and, as to those matters, I believe them to be true.

The sources of my knowledge and information and the grounds of my belief are the official files and records of the United States, my own investigation, together with others, of this case on behalf of ATF, as well as information supplied to me by other law enforcement officials.

I hereby verify and declare under penalty of perjury that the foregoing is true and correct.

Dated: July 17, 2019



Anthony Sorenson
Special Agent
Bureau of Alcohol, Tobacco, Firearms and Explosives

EXHIBIT 1

Asset ID	Asset Description
19-ATF-009507	Walther HK G36 Rifle CAL:22 SN:WL001801
19-ATF-009509	Kriss USA INC. (Transformational Defense Ind.) Kriss Vector SDP Pistol CAL:45 SN:45P003743
19-ATF-009510	DPMS Inc. (Defense Procurement MFG Services) A15 Rifle CAL:223 SN:F071249
19-ATF-009513	Barrett Firearms MFG CO. 82A1 Rifle CAL:50 BMG SN:AA003273
19-ATF-009516	Savage 10 Rifle CAL:65 SN:K631916
19-ATF-009519	F.N. (FN Herstal) Scar 17S Rifle CAL:762 SN:HC19815
19-ATF-009529	Spike's Tactical LLC ST15 Pistol CAL:Multi SN:SBR70400
19-ATF-009530	Ruger American Rifle Rifle CAL:308 SN:69522364
19-ATF-009532	Standard Manufacturing Company, LLC DP-12 Shotgun CAL:12 SN:DP02587
19-ATF-009534	Molot (Vyatskie Polyany Machine Building Plant) Vepr Shotgun CAL:12 SN:15VAT7487
19-ATF-009536	Spike's Tactical LLC The Jack Rifle CAL:Multi SN:Jack12183
19-ATF-009537	Aero Precision Inc. X15 Rifle CAL:Multi SN:X019515
19-ATF-009538	PWS (Primary Weapon Systems) Summit Rifle CAL:22 SN:CV00873
19-ATF-009539	F.N. (FN Herstal) Scar 16S Rifle CAL:556 SN:LC33514
19-ATF-009540	AERO Precision Inc. X15 Rifle CAL:Multi SN:X019514
19-ATF-009541	Benelli, S. PA. M4 Shotgun CAL:12 SN:Y091431K16
19-ATF-009542	Spike's Tactical LLC Hellbreaker Rifle CAL:Multi SN:HB 04128
19-ATF-009543	DPMS Inc. (Defense Procurement MFG Services) Panther LR-308 Rifle CAL:308 SN:151836
19-ATF-009544	Mossberg 500 Shotgun CAL:12 SN:T069628
19-ATF-009545	Anderson Manufacturing AM-15 Receiver/Frame CAL:Multi SN:17019014
19-ATF-009546	Spike's Tactical LLC Warthog Rifle CAL:Multi SN:WH03471
19-ATF-009547	Zijiang Machinery Company Catamount Fury I Shotgun CAL:12 SN:CAT002317
19-ATF-009548	I O Inc (inter Ordnance) Sporter Rifle CAL:762 SN:S002759
19-ATF-009549	CZ USA Unknown Pistol CAL:Unknown SN:C241619
19-ATF-009551	Spike's Tactical LLC ST15 Receiver/Frame CAL:Multi SN:LT005192
19-ATF-009554	Black Aces Tactical Pro Series 9 Shotgun CAL:12 SN:PS901368
19-ATF-009556	FNH USA, LLC FNX-45 Tactical Pistol CAL:45 SN:FX3U070049
19-ATF-009558	Sig-Sauer P365 Pistol CAL:9 SN:66A036690
19-ATF-009559	Century Arms International C308 Sporter Rifle CAL:308 SN:C308E09447
19-ATF-009562	Taurus The Judge Revolver CAL:45/410 SN:KN173967
19-ATF-009564	FNH USA, LLC FNS-9C Pistol CAL:9 SN:CSU0031490
19-ATF-009566	F.N. (FN Herstal) Five-Seven Pistol CAL:57 SN:386283425
19-ATF-009568	SIG Sauer (SIG-ARMS) P320F RX Pistol CAL:9 SN:58B107666
19-ATF-009569	Sig Sauer (SIG-ARMS) P226 MK25 Desert Pistol CAL:9 SN:47AI86708

19-ATF-009570	Glock GMBH 21Gen4 Pistol CAL:45 SN:BARM456
19-ATF-009571	Beretta USA Corp M9A3 Pistol CAL:9 SN:B000772Z
19-ATF-009572	Heckler and Koch Mark 23 Pistol CAL:45 SN:23016355
19-ATF-009575	Walther P22 Pistol CAL:22 SN:WAO47955
19-ATF-009577	Glock GMBH 23CGEN4 Pistol CAL:40 SN:Bake675
19-ATF-009579	Israel Weapon Ind-IWI (Israel Military Ind-IMI) Desert Eagle Pistol CAL:9 SN:36334456
19-ATF-009583	Glock GMBH 17CGEN4 Pistol CAL:9 SN:TKE838
19-ATF-009584	Russian M1895 Nagant Revolver CAL:762 SN:15600
19-ATF-009585	Israel Weapon Ind- IWI (Israel Military Ind-IMI) Desert Eagle Pistol CAL:50 SN:33200248
19-ATF-009587	Glock GMBH 43 Pistol CAL:9 SN:BCYU980
19-ATF-009588	Glock GMBH 43 Pistol CAL:9 SN:BFGX231
19-ATF-009589	Glock GMBH 26 Pistol CAL:9 SN:BATV490
19-ATF-009590	Glock GMBH 19GEN4 Pistol CAL:9 SN:BEXL596
19-ATF-009591	Unknown Unknown Silencer CAL:Unknown SN:Unknown
19-ATF-009593	Walther PK380 Pistol CAL:380 SN:WB027164
19-ATF-009594	Sig Sauer (Sig-Arms) 1911 Pistol CAL:45 SN:54B140893
19-ATF-009596	Unknown Unknown Silencer CAL:Unknown SN:Unknown
19-ATF-009597	Trailblazer Firearms, LLC Lifecard Pistol CAL:22 SN:03824
19-ATF-009603	Unknown Unknown Silencer CAL:Unknown SN:Unknown
19-ATF-009608	Unknown Unknown Silencer CAL:Unknown SN:Unknown
19-ATF-009610	Silencerco SALVO 12 Silencer CAL:12 SN:SAL12-4681
19-ATF-009611	Unknown Unknown Silencer CAL:Unknown SN:Unknown
19-ATF-009612	Rugged Oculus 22 Silencer CAL:22 SN:OCA-1201
19-ATF-009613	Unknown Unknown Silencer CAL:Unknown SN:Unknown
19-ATF-009614	Unknown Unknown Silencer CAL:Unknown SN:Unknown
19-ATF-009615	Silencerco Omega Silencer CAL:300 SN:OMG-19163
19-ATF-009616	Fostech MFG, LLC (Fostech Outdoors) ORIGIN-12 Shotgun CAL:12 SN:0001595
19-ATF-009618	1348 Rounds Assorted Ammunition CAL:308
19-ATF-009621	1267 Rounds Assorted Ammunition CAL:Multi
19-ATF-009641	878 Rounds Assorted Ammunition CAL:45
19-ATF-009647	3973 Rounds Assorted Ammunition CAL:9
19-ATF-009648	257 Rounds Assorted Ammunition CAL:410
19-ATF-009650	143 Rounds Assorted Ammunition CAL:223
19-ATF-009651	1092 Rounds Assorted Ammunition CAL:Unknown
19-ATF-009652	3995 Rounds Assorted Ammunition CAL:22
19-ATF-009653	2438 Rounds Assorted Ammunition CAL:223
19-ATF-009655	1638 Rounds Assorted Ammunition CAL:40
19-ATF-009643	1160 Rounds Assorted Ammunition CAL:300

19-ATF-009645	1102 Rounds Assorted Ammunition CAL:762
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19-ATF-009646	945 Rounds Assorted Ammunition CAL:57
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FOR THE BEST INTEREST

AND PROTECTION OF

SH (use initials only)

CAUSE NO.

UH7009485

Doc # 1-2 Filed: 07/17/19 Page 1 of 26 Page ID # 10

THE PROBATE COURT

ORIGINAL

FILE FOR RECORD
DENTON COUNTY CLERK
OF

OCT 08 2009

DENTON COUNTY, TEXAS
SHELL
DEPUTY

APPLICATION FOR TEMPORARY MENTAL HEALTH SERVICES

On the 8th day of October, 2009, Applicant filed this application. Applicant's address: 2026 W. University Drive, Denton, Texas 76201 Phone #: (940) 320-8113 Relationship to proposed patient: Mental Health Provider

(Please indicate the address where the "Proposed Patient" can be apprehended the day of Court)

The Court Clerk must know of any changes in this address by 10:00 am the day of Court

Address: 2026 W. University Drive City: Denton, Texas Zip: 76201

Any Special Needs when transporting: N/A

How did this proposed patient come to be admitted to your facility? The patient came to UBH by private vehicle and on the Denton County involuntary contract.

1. My name is Shanna Hancock an adult person.
2. I am making this Application for Temporary Mental Health Services for, Samuel Helwig, here in after referred to as "Proposed Patient", who resides in Denton County, at 836 West 9th Street, Junction City, Kansas 66441, Geary County.

Date of Birth 10/07/80 **S.S. #** 506-21-2953

Height: Unknown **Weight:** Unknown **Race:** Caucasian

Sex: Male **Hair Color:** Brown **Drivers License #:** H1223369 Nebraska

3. Based upon information and belief it is my opinion that the Proposed Patient:

(a) is mentally ill; and

(b) as a result of that mental illness is:

(1) Likely to cause serious harm to self

OR

(2) Likely to cause serious harm to others

OR

(3) Is suffering severe and abnormal mental, emotional or physical distress; is experiencing substantial mental or physical deterioration of his ability to function independently, which is exhibited by the proposed patient's inability, except for reasons of indigence, to provide for his basic needs, including food, clothing, health, or safety; and, is unable to make a rational and informed decision as to whether or not to submit to treatment.

(4) The proposed patient has an inability to participate in outpatient treatment services effectively and voluntarily

(c) Is not charged with a criminal offense.

4. Certificate of Medical Exam (CME) ☒ is attached/ ☐ is not attached.

5. If the proposed patient is a minor or a ward in a guardianship, name, address, and phone number of parent(s) or guardian. N/A

APPLICANT

Shanna Hancock

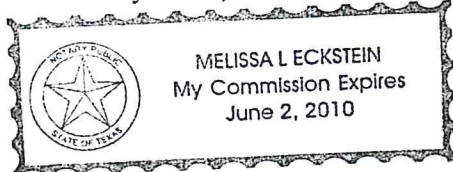
DATE

10/8/09

SUBSCRIBED AND SWORN TO before me on

10/08, 2009

Notary Public, State of Texas



Approved For Filing:

Assistant District Attorney

GOVERNMENT
EXHIBIT

2

CAUSE NO. _____

Samuel Helwig

PROPOSED PATIENT

Shanna Hancock

APPLICANT

1. Does the proposed patient have any pending criminal charges? No X Yes ____
2. Has the proposed patient ever received psychiatric care? If yes, when and where?
The patient denies any previous inpatient psychiatric care. The patient refused to give any information on psychiatric history.
3. Do you have reason to believe, and do believe, that the proposed patient is at risk of Serious harm to self or others? Specify the risk and describe.
Yes. The patient is a harm to himself and others. The patient stated having "daily" suicidal ideations but refused to tell the clinician his plans. The patient also stated having homicidal ideations but refused to state his plans. The patient reported having command hallucinations telling himself "to hurt."
4. Do you have reason to believe, and do believe, that the risk is substantial unless the person is immediately restrained? Specify and describe need for immediate restraint:
Yes, the patient is suicidal but refuses to state a plan. The patient reports ideations "daily." The patient also reports feeling hopeless and helpless. The patient reports command hallucinations telling him "to hurt" others but he refused to state a plan.
5. State whether your beliefs are based on recent behavior, overt acts, attempts, or threats? Specify and describe:
My beliefs are based on the patient's recent statements of having "daily" suicidal thoughts and command hallucinations telling him "to hurt."
6. Are there any knives or guns in the house?
Not known at this time, patient is currently hospitalized.
7. Does the patient carry weapons?
Not at this time, patient is currently hospitalized.
8. Has the proposed patient participated in recent outpatient treatment? If yes, when and where? Detail Applicant's efforts to obtain outpatient treatment?
The patient refused to state any information on psychiatric history but per information from Military base, the patient sees Dr Kinzie as an outpatient psychiatrist.

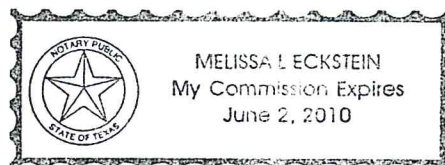
Shanna Hancock
APPLICANT

10/8/09
DATE

SUBSCRIBED AND SWORN TO before me on 10/08, 2009.

WJL

Notary Public, State of Texas



FILE FOR RECORD
DENTON COUNTY CLERK

CAUSE NO. MH-2009-485

OCT 08 2009

CYNTHIA MITCHELL
DEPUTY

IN THE PROBATE COURT

State of Texas for The Best
Interest and Protection of S.H.

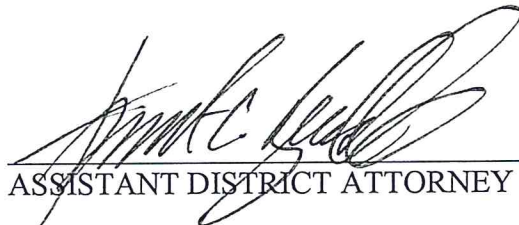
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OF

DENTON COUNTY, TEXAS

MOTION FOR WRIT OF ATTACHMENT

NOW COMES the undersigned Assistant District Attorney for Denton County, Texas, and requests the Court to order the Clerk of the County to issue its Writ of Attachment for the reason that Samuel Hilwig the proposed patient is to appear before the Court on 8th day of October, 2009


ASSISTANT DISTRICT ATTORNEY

ORDER

It appearing that there is set in this court on the 8th day of October, 2009 at 2:00 o'clock p.m., a Probable Cause Hearing in the above cause, it is hereby ORDERED that the above Motion be GRANTED and that the County Clerk issue a Writ of Attachment for the person of, Samuel Hilwig presently in the custody of UBH Said individual is to be returned to this Court not later than P.M. on the 8th day of October, 2009 , there to remain, until the hearing of this cause.

SIGNED THIS THE 8th DAY OF October, 2009.


ASSOCIATE JUDGE PRESIDING
PROBATE COURT
DENTON COUNTY, TEXAS

CAUSE NO. MH-2009-485

State of Texas for The Best Interest and
Protection of S.H.

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IN THE PROBATE COURT

OF

DENTON COUNTY, TEXAS

NOTICE OF HEARINGS

TO: Samuel Hilwig PROPOSED PATIENT

You are hereby advised that pursuant to a Motion for an Order of Protective Custody, you have been placed in protective custody for the reasons expressed in the Application and Motion, copies of which are attached to this Notice. A Hearing will be held on 8th day of October, 2009 at 2:00 P.M., at the Probate Court of Denton County, Texas, to establish whether there is probable cause to believe that you present a substantial risk of serious harm to yourself or others. The judge presiding at the Probable Cause Hearing may hear evidence not admissible at a subsequent commitment hearing. The State may prove its cause on the Certificate(s) in support of your detention.

Russell L. Welch, Attorney, has been appointed to represent you during this hearing for your best interest and protection. If you desire, you may hire a lawyer of your own choosing to represent you. You may consult with an attorney regarding your rights in this case.

You are further advised that, pursuant to an Application for Court-Ordered Temporary Mental Health Services and Certificates of Medical Examination for Temporary Mental Health Court Commitment, that on 15th day of October, 2009 at 3:00 P.M. at the Probate Court of Denton County, Texas, a Hearing will be held on the attached Application to determine whether or not you are mentally ill and meet the criteria for Court-Ordered Temporary Mental Health Services for a period of time not to exceed ninety (90) days. You have the right to be present at the Hearing, but your presence may be waived by you or your attorney; said Hearing will be before the Court unless a jury is requested.

ISSUED THIS THE 8th DAY OF October, 2009.

**CYNTHIA MITCHELL, COUNTY CLERK
DENTON COUNTY, TEXAS**

BY: 

Deputy Clerk

OCT 08 2009

CYNTHIA MITCHELL
DEPUTY

CAUSE NO. MH-2009-485

State of Texas for The Best
Interest and Protection of
S.H.§
§
§
§

THE PROBATE COURT

OF
DENTON COUNTY, TEXASORDER OF PROTECTIVE CUSTODY

TO: Denton County Sheriff

TO: North Texas State Hospital, Wichita Falls Campus

WHEREAS, an Application for Court-Ordered Mental Health Services for Samuel Hilwig hereinafter called "Proposed Patient", is pending in the above referenced Court, and there also having been filed, by the appropriate representative of the State, a MOTION for an Order of Protective Custody, accompanied by a Certificate of Medical Examination for Mental Illness showing that the Proposed Patient has been examined, not earlier than three days before the filing of such MOTION, by Dr. Umar Latif.

AND WHEREAS the Court has considered said Application, Motion, and Certificate, and taken further evidence, if any was needed for a fair determination of the matter, and has resolved that the conclusions and beliefs of the Applicant, Movant, and Certifying Physician are adequately supported by the information presented;

AND WHEREAS the Court has thereby determined that the Certifying Physician has state an opinion, and the detailed reasons for his opinion, that the proposed patient is mentally ill; and has further determined that said proposed patient presents a substantial risk of serious harm to self or others if not immediately restrained pending a Probable Cause Hearing; such substantial risk has been evidenced by: (a) X the proposed patient's behavior and/or (b) _____ severe emotional distress and deterioration to the extent that the person cannot remain at liberty.

NOW THEREFORE, YOU ARE HEREBY ORDERED to take the person of the proposed patient into custody or maintain custody if commenced by warrant less apprehension and detention and immediately transport or maintain, if applicable such person to the above designated facility, which the Court finds is a treatment facility or other suitable place for detention according to law, pending a Probable Cause Hearing.

HEREIN FAIL NOT, but of this ORDER make due return to said Court showing how you have executed the same.

CAUSE NO. MH-2009-485

A **GIVEN UNDER MY HAND** this the 8th day of October, 2009, at 10:00 o'clock
a.m., at Denton County, Texas.



**ASSOCIATE JUDGE PRESIDING
PROBATE COURT
DENTON COUNTY, TEXAS**

(This order is effective for 72 hours from the above time: unless it falls
on a weekend, or a legal holiday - then it expires the next following day)

RECEIVED AT the designated facility, this the _____ day of _____, _____.

FACILITY REPRESENTATIVE

TITLE

CAUSE NO. MH-2009-485

OCT 08 2009

State of Texas for The Best
Interest and Protection of S.H.§
§
§CYNTHIA MITCHELL
IN THE PROBATE COURT DEPUTY
OF
DENTON COUNTY, TEXAS**MOTION FOR PROTECTIVE CUSTODY ORDER**

NOW COMES the undersigned Assistant District Attorney of Denton County, Texas, in the above styled and numbered cause, and files this MOTION FOR PROTECTIVE CUSTODY for

Samuel Hilwig

and for cause would show the following:

1. An Application for Temporary Mental Health Services is pending in the above styled and numbered cause.
2. The undersigned has reason to believe and does believe upon the representation of a credible person, or upon the basis of the conduct of the said proposed patient, or the circumstances under which the said proposed patient was found that the proposed patient meets the following criteria:
 - (a) A physician has stated the opinion and the detailed basis for the opinion that the said proposed patient is mentally ill; and
 - (b) The said proposed patient presents substantial risk of serious harm to self or others if not immediately restrained pending the commitment hearing.

Attached hereto and incorporated by reference as if fully set out herein, is a Certificate of Medical Examination for Mental Illness by a physician who has examined the said proposed patient within three (3) days of the filing of this Motion.

WHEREFORE, PREMISES CONSIDERED, Movant requests the Court to ORDER protective custody for Samuel Hilwig until such time as a final hearing can be had on the Application and for such other and further relief as may be found necessary by the Court.

SIGNED this the 8th day of October, 2009.



ASSISTANT DISTRICT ATTORNEY

OCT 08 2009

CYNTHIA MITCHELL
DEPUTY

CAUSE NO. MH-2009-485

State of Texas for The Best
Interest and Protection of S.H.

§

IN THE PROBATE COURT

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OF

§

DENTON COUNTY, TEXAS

**ORDER APPOINTING ATTORNEY, FOR INSPECTION,
SETTINGS HEARINGS AND FOR NOTICE**

On this the 8th day of October, 2009, it having been called to the attention of the Court that an Application for Court-Ordered Mental Health Services for Samuel Hilwig, as a Proposed Patient, has been filed in the above referenced cause, accompanied by a Certificate of Medical Examination for Mental Health and, **if applicable**, a Motion for an Order of Protective Custody:

IT IS THEREFORE ORDERED:

1. That Russell L. Welch is appointed Attorney to represent the proposed patient; that said attorney shall be furnished with all records and papers in said cause, and shall have access to all TDMHMR and Denton County MHMR records concerning prior and/or present treatment, recommendations and services provided for said proposed patient; and that, to ensure effective communication between said attorney and the proposed patient, any necessary interpreters be likewise appointed.

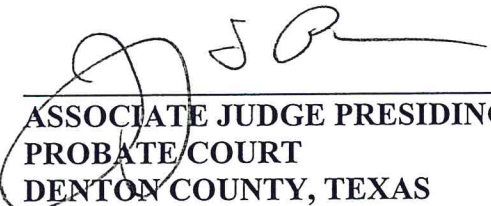
2. That, **if applicable**, a Hearing on Probable Cause be held 8th day of October, 2009 at 2:00 P.M., in Denton County Probate Court, Denton County, Texas.

3. That said Application be and the same is hereby set for hearing on 15th day of October, 2009 at 3:00 P.M., in Denton County Probate Court, Denton County, Texas.

4. That the Clerk of the Court issue NOTICE OF HEARING to the proposed patient, and the above named attorney pursuant to Section 574.006 of the Texas

Health and Safety Code. If applicable, such written NOTICE shall indicate that the proposed patient has been placed under an Order of Protective Custody, the reasons why such ORDER was issued, and the time and place of the Probable Cause Hearing.

5. All papers filed in this cause shall be at the Hearing specified above.



ASSOCIATE JUDGE PRESIDING
PROBATE COURT
DENTON COUNTY, TEXAS

OCT 08 2009

CAUSE NO. MH-2009-485

State of Texas for The Best
Interest and Protection of S.H.

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§
§

CYNTHIA MITCHELL
IN THE PROBATE COURT DEPUTY
OF
DENTON COUNTY TEXAS

ORDER FOR CONTINUED DETENTION
BASED ON PROBABLE CAUSE

On the 8th day of October, 2009, the undersigned hearing officer heard evidence concerning the need for Samuel Hilwig to remain in protective custody. The Proposed Patient was given the opportunity to challenge the allegations that he Presents a substantial risk of serious harm to self or others to the extent that the proposed patient cannot remain at liberty pending a hearing on court-ordered Mental Health services. The Proposed Patient and attorney, Russell L. Welch, have been given written notice that the Proposed Patient was placed under an Order of Protective Custody, and the reasons for such ORDER, on 8th day of October, 2009

I have examined the following: *[only the items marked were examined or considered]*

- ☒ Certificate(s) of Medical Examination for Mental Illness; _____
- _____ Screening Report(s) from Denton County MHMR Center personnel; _____
- _____ Screening Report(s) from Denton County Sheriff's Deputies; _____
- _____ Demeanor and/or testimony of the Proposed Patient; _____
- _____ Testimony of family members/witnesses; _____
- _____ Testimony of expert/fact witnesses; _____
- _____
- _____

_____ Judicial notice has been taken of the complete file.

Based on this evidence, I find as follows: *[only the marked paragraph is a finding by the Court]*

- ☒ Samuel Hilwig Proposed Patient, has **waived** the right to a Probable Cause Hearing.

X It appears to this Court that there is an adequate factual basis supporting probable cause to believe that the Proposed Patient presents a substantial risk of harm to self (yes X, no _____) or others (yes X, no _____) such that he cannot be at liberty pending the Hearing on the Application because:
RESPONDENT IS HOMICIDAL AND SUICIDAL.

INPATIENT OPTION [only the marked paragraphs are **ORDERS of Court**]

X **IT IS ORDERED** that the Proposed Patient be returned to and/or be detained in North Texas State Hospital, Wichita Falls Campus an appropriate in-patient treatment facility. I direct that copies of the Certificate(s) of Medical Examination be delivered to the head of the facility, with a copy of this Order.

X **IT IS ORDERED** that the ORDER OF PROTECTIVE CUSTODY, signed on 8th day of October, 2009, shall be and hereby is superseded and this order shall remain in effect until the date of the temporary hearing, or thereafter as provided by law, and shall apply to North Texas State Hospital, Wichita Falls Campus

X I further **ORDER** the Denton County Sheriff Deputies or responsible party to take charge of the Proposed Patient and transport to the North Texas State Hospital, Wichita Falls Campus

OUTPATIENT OPTIONS--

_____ **IT IS ORDERED** that the Proposed Patient be submitted and continued in treatment at Denton County MHMR Center, an appropriate out-patient treatment facility. I further direct that copies of the Certificate(s) of Medical Examination be delivered to the head of the out-patient facility.

_____ Other: _____

RELEASE OF PROPOSED PATIENT PENDING TEMPORARY HEARING

_____ No, or insufficient, probable cause exists to believe that the Proposed Patient in the above-styled cause presents a substantial risk of serious harm to self or others such that the liberty of Proposed Patient should be restricted pending the hearing on the merits of the

Application. It is hereby **ORDERED** that said Proposed Patient be released pending the hearing on the Application. It is further **ORDERED** that arrangements be made for the immediate return of the Proposed Patient either to the location of apprehension or to place of residence, or to some other suitable place within Denton County, Texas.

☒ The Hearing on the Application for Temporary Order Mental Health Services has been set for 3:00 p.m., on the 15th day of October, 2009

☐ Samuel Hilwig Proposed Patient, has **waived** the right to a Temporary Hearing after being afforded an opportunity to fully confer with Counsel. Accordingly, appropriate ORDERS will be entered.

☒ Samuel Hilwig, is **ORDERED** to appear at the hearing on the Application for Temporary Mental Health Services.

RELEASE OF PROPOSED PATIENT SINE DIE

☐ No, or insufficient probable cause exists to proceed with the instant Application on any basis and, accordingly, this entire cause is dismissed in its entirety, sine die.

I further direct that a copy of this ORDER FOR CONTINUED DETENTION BASED ON PROBABLE CAUSE be delivered to the head of the facility detaining said Proposed Patient.

SIGNED on this the 8th day of October, 2009.



**ASSOCIATE JUDGE PRESIDING
DENTON COUNTY PROBATE COURT**

....
RECEIVED AT _____ this the _____ day of _____,
Designated Facility

MH-2009-485

FACILITY REPRESENTATIVE

TITLE

FILE FOR RECORD
DENTON COUNTY CLERK

OCT 08 2009

CYNTHIA MITCHELL
DEPUTY

CAUSE NO. MH-2009-485

Order Directing ATR

State of Texas for The Best
Interest and Protection of S.H.

§

IN THE PROBATE COURT

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OF

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DENTON COUNTY TEXAS

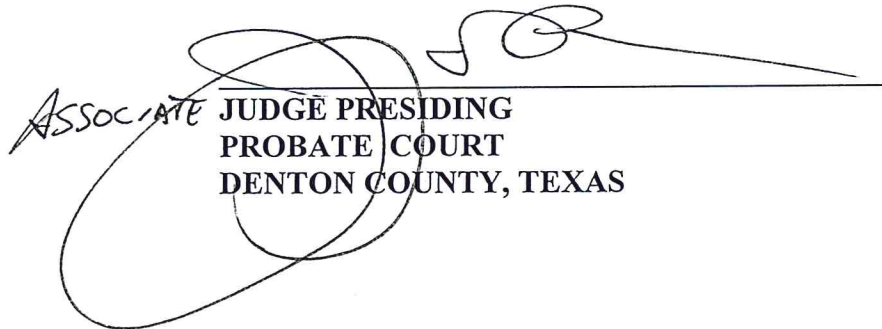
TO: DENTON COUNTY MHMR, P. O. BOX 2345, DENTON, TEXAS

ATTN: ADMINISTRATOR

In accordance with the provisions of Sec. 574.012 of the Texas Health and Safety Code,
you are hereby **ORDERED** and directed to file an **ALTERNATIVE TREATMENT
RECOMMENDATION** for the proposed patient in the above entitled and numbered cause.

Said recommendation shall be filed with the Clerk of this Court on or before 10:00 a.m.,
on this the 15th day of October, 2009.

ORDERED AND SIGNED on this the 8th day of October, 2009

ASSOCIATE 
JUDGE PRESIDING
PROBATE COURT
DENTON COUNTY, TEXAS

OCT 08 2009

CYNTHIA MITCHELL
DEPUTY

CAUSE NO. MH-2009-485

State of Texas for The Best
Interest and Protection of S.H.

§

IN THE PROBATE COURT

§

OF

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DENTON COUNTY, TEXAS

WAIVERS OF PROBABLE CAUSE HEARING

I, Samuel Hilwig the Proposed Patient in the above styled and numbered cause, having been advised of my right to a Hearing to determine if probable cause exists for me to be detained pursuant to an **ORDER OF PROTECTIVE CUSTODY** issued in this cause and to contest the same, do hereby agree to abide by such Order for Protective Custody. It is expressly understood that this is not to be considered as an admission of mental illness or dangerousness to my self or others, and further that I reserve all rights to present any defenses available at the time of a hearing on the merits.

DATED this the

~~10~~ 8

day of

Oct

2009

Samuel Hilwig

Proposed Patient

I, Russell L. Welch the attorney for the Proposed Patient in the above styled and numbered cause, have advised said Proposed Patient of the right to a Hearing to determine if probable cause exists for said Proposed Patient to be detained pursuant to an Order of Protective Custody. In my judgment the best interest of said Proposed Patient would be served by such detention and I do hereby waive my client's right to said hearing.

DATED this the

8

day of

Oct

2009

Russell L. Welch

Attorney for Proposed Patient

I, the undersigned attorney, acknowledge receipt of a NOTICE OF PROBABLE CAUSE HEARING issued in the above styled and numbered cause. I hereby waive my right to service of said NOTICE.

Russell L. Welch

Attorney for Proposed Patient

CAUSE NO. MH-2009-485

APPROVAL

On this day came on to be considered the above WAIVER, and the same having been examined by, and it appearing to the Court that said WAIVER is satisfactory and is supported by the evidence, the same is hereby APPROVED.

SIGNED this the 8th day of October, 2009



**ASSOCIATE JUDGE PRESIDING
PROBATE COURT
DENTON COUNTY, TEXAS**

FILE FOR RECORD
DENTON COUNTY CLERK

CAUSE NO. MH-2009-485

OCT 08 2009

State of Texas for The Best
Interest and Protection of S.H.

§

IN THE PROBATE COURT OF DENTON COUNTY, TEXAS

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OF

DEPUTY

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DENTON COUNTY, TEXAS

NOTIFICATION TO COURT OF PROPOSED PATIENT'S RESPONSE TO ATTORNEY

I, Russell L. Welch, having been appointed as Attorney for the above-referenced Proposed Patient, state that I interviewed Samuel Hilwig this date, and that after discussion with, and explanation to, the Proposed Patient of the circumstances of the case, and the Proposed Patient's legal rights and options, the Proposed Patient:

() desires to not resist the Application and for an agreed Order to be entered, without the need for a Temporary Hearing on the 15th day of October, 2009

☒ requests Temporary Hearing before the Court on the 15th day of October, 2009

☒ waives the right to a Probable Cause Hearing.

() waives the right to be present at a Temporary Hearing.

() waives the right to cross-examine witnesses.

() could not/would not communicate with me so as to ascertain true desire; consequently, is unable or unwilling to participate with counsel. With the Court's approval, its findings should be based on the Certificate(s) of Medical Examination; and if required, upon other competent testimony; provided that when and if the patient becomes able and willing to contest the issues, that the patient or any individual on the patient's behalf may request the Court to determine if the ORDER should be set aside or modified.

() Recommended Outpatient treatment

() Other: _____

SIGNED this the 8 day of October, 2009

Agreed:

Assistant District Attorney

Russell L. Welch

Attorney for Proposed Patient

FILE FOR RECORD
DENTON COUNTY CLERK

CAUSE NO. MH-2009-485

OCT 08 2009

State of Texas for The Best Interest and
Protection of S.H.§
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IN THE PROBATE COURT

CYNTHIA MITCHELL
DEPUTY

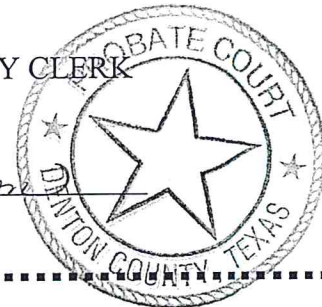
OF

DENTON COUNTY, TEXAS

WRIT OF ATTACHMENT

TO: DENTON COUNTY SHERIFF

Pursuant to the ORDER issued this day by the Honorable Judge of the Probate Court of Denton County, Texas, you are hereby commanded to attach the person of, Samuel Hilwig presently in the detention and custody of UBH. not later than 1:30 P.M., on 8th day of October, 2009 and transport to 1450 E. McKinney, Suite 2612, Denton, Texas.

Cynthia Mitchell, COUNTY CLERK
Denton County, TexasBy: [Signature]
Deputy Clerk

OFFICER'S RETURN

The Within Writ came to hand on the 8 day of October, 2009, at 105 o'clock P.m., and was executed on the 8 day of October, 2009, by serving a copy of the Writ together with a copy of the accompanying **ORDER** of the Court on the within named Proposed Patient and by taking said Proposed Patient into custody. The Proposed Patient has been placed in the custody of **Denton County Sheriff's Office - Mental Health Unit** and will be personally produced at the 2:00 p.m. hearing.

DATED THIS THE 8 DAY OF October 2009.BENNY PARKEY, SHERIFF
DENTON COUNTY, TEXASDEPUTY [Signature]

OCT 08 2009

CYNTHIA MITCHELL
DEPUTY

CAUSE NO. MH-2009-485

State of Texas for The Best Interest and
Protection of S.H.§
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IN THE PROBATE COURT

OF

DENTON COUNTY, TEXAS

OFFICER'S RETURN
NOTICE OF HEARINGS

Came to hand on the 8 day of October, 2009, at
105 o'clock P.M., and executed in **DENTON** County, Texas, by delivering to the within
 Samuel Hilwig, proposed patient, at 105 o'clock P.M., on the 8 day of October,
2009, a true and correct copy of the petition thereto attached .

TO CERTIFY which, witness my hand officially,

BENNY PARKEY, SHERIFF
DENTON COUNTY, TEXASBY: Michelle 25207
DEPUTY

FILE FOR RECORD
DENTON COUNTY CLERK

OCT 08 2009

CYNTHIA MITCHELL
DEPUTY

CAUSE NO. MH-2009-485

**ORDER OF PROTECTIVE CUSTODY
OFFICER'S RETURN**

THE STATE OF TEXAS

COUNTY OF DENTON

CAME TO HAND on the 8 day of October, 2009 at
105 o'clock P.M., and executed in Denton County, Texas, by delivering to the
within named Proposed Patient Samuel Hilwig at 105 o'clock P.M., on the 8 day of
October, 2009, in person a true copy of this warrant and transporting the said
Proposed Patient to the Denton County Probate Court, where I presented said person for
admission **OR** where I found said person, there to be detained pending a Probable Cause hearing
or upon further orders of the Court.

TO CERTIFY WHICH WITNESS MY HAND OFFICIALLY.

**BENNY PARKEY, SHERIFF
DENTON COUNTY, TEXAS**

By: MHEU 256T

FILE FOR RECORD
DENTON COUNTY CLERK

JUL 15 2009

RUSSELL
DEPUTY

CAUSE NO. MH-2009-485

State of Texas for The Best
Interest and Protection of S.H.

§

IN THE PROBATE COURT

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OF

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DENTON COUNTY, TEXAS

**JUDGMENT - NO JURY COURT-ORDERED
TEMPORARY MENTAL HEALTH SERVICES IN-PATIENT**

On this the 15th day of October, 2009 came to be heard the Application for Court-Ordered Temporary Mental Health Services in the above numbered and entitled cause alleging that Samuel Hilwig, hereinafter called "Patient", is mentally ill and that as a result of the mental illness: (1) X is likely to cause serious harm to self; or (2) _____ is likely to cause serious harm to others; or (3) X will, if not treated, continue to suffer severe and abnormal mental, emotional or physical distress and will continue to experience deterioration of the ability to function independently and is unable to make a rational and informed decision as to whether or not to submit to treatment; or (4) X has an inability to participate in outpatient treatment services effectively and voluntarily. No jury having been demanded; and Russell L. Welch, Attorney for the Patient, and the **Assistant District Attorney** for the State, announced ready and all matters of fact and law were submitted to the Court.

The Court finds that all necessary parties have been served with a copy of said Application and written Notice of the time and place of this Hearing. It further appearing to the Court that Drs. **Umar Latif** and **James Shupe**, all of whom are duly licensed to practice medicine in the State of Texas or employed by an agency of the United States having a license to practice medicine in any state of the United States, having timely filed in this cause Certificates of Medical Examination for Mental Illness stating that the Patient is mentally ill; said Certificates are in compliance with the Texas Health and Safety Code.

The Court finds that all terms and provisions of the Texas Health and Safety Code have been complied with, and after considering all of the evidence and testimony and Certificates filed herein, the Court finds that the facts alleged in the above mentioned Application are true and correct.

Accordingly, the Court finds that the Patient is mentally ill and that as a result of that mental illness: (1) X is likely to cause serious harm to self, or (2) _____ is likely to cause serious harm to others, or (3) X will, if not, treated, continue to suffer severe and abnormal mental, emotional or physical distress and will continue to experience deterioration of the ability to function independently and

is unable to make a rational and informed decision as to whether or not to submit to treatment, **or** (4) X has an inability to participate in outpatient treatment services effectively and voluntarily.

It is **ORDERED, ADJUDGED AND DECREED** that the Patient is hereby committed for Court-Ordered Temporary Mental Health Services to **UBH** for a period of time not to exceed ninety (90) days.

It is further **ORDERED** that the Clerk of this Court issue a Writ of Commitment in duplicate to the County Sheriff of Denton County or responsible party, authorizing and commanding said Mental Health Deputies or responsible party to take charge of the Patient and to transport Patient to the above designated in-patient mental health facility.

The Head of the above named in-patient mental health facility, upon receiving a copy of the Writ of Commitment and admitting the Patient shall give the person transporting the Patient a written statement acknowledging acceptance of the Patient and shall file a copy of statement with the Clerk of this Court.

The Clerk of this Court is further **ORDERED** to prepare a certified transcript of the proceeding and with any available information concerning the medical, social and economic status and history of the Patient and the Patient's family and send it to that facility's personnel in charge of admission.

It is further **ORDERED** that the Head of the above named in-patient mental health facility notify the Denton County Mental Health Clerks, of the discharge or transfer plans for Patient so that said mental health coordinator can produce the necessary documents for the Court file.

SIGNED THIS THE 15th DAY OF October, 2009.



**ASSOCIATE JUDGE, PROBATE COURT
DENTON COUNTY, TEXAS**

CAUSE NO. MH-2009-485

State of Texas for The Best
Interest and Protection of S.H.

§

IN THE PROBATE COURT

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OF

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DENTON COUNTY, TEXAS

WRIT OF COMMITMENT

TO: UBH

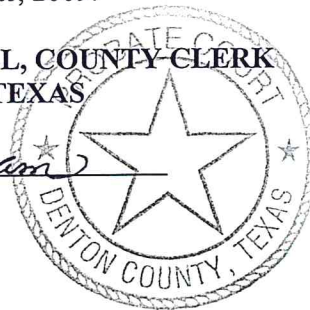
WHEREAS by order dated October 15, 2009, in the above numbered and entitled cause, Samuel Hilwig, hereinafter called Patient, was committed for in-patient care to UBH for a period not to exceed ninety (90) days; and said ORDER authorizing and commanding you to accept the Patient for in-patient services.

THEREFORE you are hereby authorized and commanded to accept the Patient. You are further directed to file a written statement acknowledging receipt of the Patient with the Clerk of this court in the papers of said cause.

Given under my hand and seal of office this the 15 day of October, 2009.

CYNTHIA MITCHELL, COUNTY CLERK
DENTON COUNTY, TEXAS

BY: L. Graham
Deputy Clerk



**OFFICER'S RETURN
WRIT OF COMMITMENT**

The Within Writ came to hand on the _____ day of _____, _____, at _____ o'clock ____m., and was executed on the ____ day of _____, _____ by serving a copy of the Writ together with a copy of the accompanying **ORDER** of the Court on the within named Proposed Patient and by taking said Proposed Patient into custody. The Proposed Patient has been placed in the custody of **Denton County Sheriff's Office - Mental Health Unit or responsible party** and will be personally produced at UBH.

DATED THIS THE _____ DAY OF _____.

BENNY PARKEY, SHERIFF
Denton County, Texas

DEPUTY

MH-2009-485

ACCEPTANCE OF PATIENT

On this _____ day of _____, _____, the Patient described in the above Writ was accepted by me as head of _____, named in said commitment.

Dated this _____ day of _____, _____.

BY _____ (Superintendent)

(STAFF SIGNATURE)

OCT 15 2009

CAUSE NO. MH-2009-485

RUSSELL L. WELCH
DEPUTYState of Texas for The Best
Interest and Protection of S.H.

§

IN THE PROBATE COURT

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OF

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DENTON COUNTY, TEXAS

WAIVER OF RIGHT TO BE PRESENT AT TEMPORARY HEARING

I, Samuel Hilwig, do hereby state that I do not desire to be present at the **TEMPORARY HEARING** on the Application for Court-Ordered Mental Health Services filed with the County Clerk of Denton County.

I do hereby authorize said hearing officer to make the finding upon the basis of the Certificate(s) of Medical Examination for Mental Illness on file with said Court and to expedite the case to hearing at the earliest possible date.


 Samuel Hilwig
 Proposed Patient


 Russell L. Welch
 Attorney for Proposed Patient
DATE: 10/15/2009

GRANTED

~~DENIED~~

 ASSOCIATE JUDGE
 PROBATE COURT

FILE FOR RECORD
DENTON COUNTY CLERK

OCT 15 2009

CAUSE NO. MH-2009-485

State of Texas for The Best
Interest and Protection of S.H.

§

IN THE PROBATE COURT

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OF

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DENTON COUNTY, TEXAS

**WAIVER OF RIGHT TO CROSS EXAMINE WITNESS AND OF EVIDENCE OF A
RECENT OVERT ACT OR CONTINUING PATTERN OR BEHAVIOR AT HEARING
ON COURT ORDERED MENTAL HEALTH SERVICES**

We, the undersigned Proposed Patient and Attorney representing said Proposed Patient in the above-referenced cause, hereby waive the right to cross-examine witnesses and file same with the Court. Accordingly, at the Hearing on the Application for Court-Ordered Mental Health Services, the Court may admit into evidence the Certificate of Medical Examination for Mental Illness based on examinations conducted within the preceding 30 days, and, if so admitted, the Certificates shall constitute competent medical or psychiatric testimony and the Court may make its findings on the basis of these Certificates.

We further waive evidence of either a recent overt act or a continuing pattern of behavior, in either case, tending to confirm the likelihood of serious harm to others or to me, the Proposed Patient, or my distress and deterioration of ability to function.

SIGNED AND ENTERED THIS

15

day of

October 2009

Guardian of Proposed Patient
(If apply)

Proposed Patient

Russell L. Welch

Attorney for Proposed Patient

JAN 21 2010

CAUSE NO. MH-2009-485

State of Texas for The Best
Interest and Protection of S.H.

§

IN THE PROBATE COURT

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OF

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DENTON COUNTY, TEXAS

ORDER OF DISMISSAL

On this day came on to be considered the Application for Court-Ordered Mental Health Services in the above referenced cause and it appearing to the Court:

_____ That two Certificates of Medical Examination have not been filed with the Court.

_____ That the patient has signed a Request for Voluntary Admission, which is acceptable to the facility.

_____ That the patient has filed written withdrawal of Request for Release from voluntary admission for in-patient care such that Court-Ordered Services are no longer required.

_____ That placement of the Proposed Patient in a less restrictive alternative setting for care has been obtained, such that Court-Ordered Services are no longer required.

✓ _____ That time for further hearings has expired.

_____ Discharged from North Texas State Hospital with referral to Denton County MHMR.

_____ Other: _____

It is therefore ORDERED that said Application be, and the same is hereby dismissed, and that, if applicable, the person be immediately released if not presently at liberty.

SIGNED AND ORDERED this 21 day of January, 2010



ASSOCIATE JUDGE
PROBATE COURT